THE HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
THE HON'BLE SRI JUSTICE G. BHAVANI PRASAD

TAKEN UP WRIT PETITION NO.5828 OF 2007

Date: 27.12.2007

Between:

B.S.V.S.P. Choudary, President, All India
Credit Card Association, A.P. Unit,
112, C Block , Prashanti Towenrs, Musheerabad,
Hyderabad.. … Petitioner

And

The Station House Officer,
Mahankali Police Station, … Respondents.
Secunderabad & another

ORAL ORDER: **(per A. Gopal Reddy, J)**

The telegram dated 16.3.2007 sent by one Sri B.V.S.P. Choudary, claiming

himself to be the president of All India Credit Card Members Association, A.P. Unit, Hydrabad to the Hon'ble the Chief Justice of this Court complaining that the recovery gundas/representatives of HDFC Bank have illegally detained Prof. C.L.N. Murthy, Scientist, IICT, Uppal, Hyderabad and that the Station House Officers of Mahankali Police Station and Chikkadapalli Police Station have illegally acted in that regard, was taken up as Writ Petition.

The petitioner has sent two telegrams on 16.3.2007. The contents of the telegrams are that the petitioner has received a phone call from Prof. C.L.N. Murthy, Scientist at IICT Uppal stating that some recovery gundas/representatives of HDFC Bank followed him from his residence and forcibly kidnapped him and to rescue him, that recovery gundas had brought C.L.N.Murthy to Mahankali Police Station, that on his (petitioner) telephoning to the police service, he was asked to contact the Mahankali P.S, that he went to Mahankali Police Station and met C.L.N. Murthy to rescue him from the clutches of police, that Sri P. Narayana, the Circle Inspector of Police, Mahankali Police Station colluded with the HDFC recovery gundas and forced him to sign on blank and written papers, that when he enquired the C.I. of Police, Mahankali P.S, he abused him in filthy language and threatened him by taking out his service revolver stating that he will encounter him and nobody can do anything as he is co-brother of Minister Marappa and pushed him out of the police station, that after half an hour, he received a call from Murthy stating that he has been taken to Chikkadapalli Police and he does not know the whereabouts of Murthy and, therefore, prayed to take suitable action against the concerned and to protect the life of the alleged detenu and his family members.

In response to the Rule Nisi, Sri M. Narayana, Inspector of Police, Mahankali Police Station filed a counter-affidavit denying the allegations that Sri C.L.N. Murthy was kidnapped by the recovery gundas of HDFC bank and handed over him and also the police forcing the petitioner as well as the scientist to sign on blank papers and he colluding with the recovery gundas of HDFC bank and threatening the petitioner to kill in an encounter by pointing out his service revolver. It is further averred that no case whatsoever was registered at their Police Station against the bank authorities by Sri C.L.N. Murthy nor the HDFC bank authorities approached the police to lodge a complaint against Sri C.L.N. Murthy. Sri C.L.N. Murthy himself approached the police station and orally stated that he has to pay some dues to the HDFC bank and for recovery of the same, the bank authorities are harassing him and requested to take necessary action. As the alleged offence falls within the limits of Chikkdapally Police Station, Sri C.L.N. Murthy was advised to approach the

2nd respondent for taking necessary action and accordingly on the complaint of Sri Murthy, a case was registered against the HDFC bank authorities and investigated into.

The Sub-Inspector of Police, Mahankali Police Station, Secunderabad also filed a counter stating that a case in Cr.No.148 of 2007 under sections 448, 384, 342, 323 and 506 IP.C was registered on the file of Chikkadapally Police Station and the same is ending investigation.

The learned Government Pleader for Home submitted that the police after completion of the investigation into the case laid charge sheet against the persons accused in the crime before the competent Magistrate having jurisdiction over the matter.

Sri Nalin Kumar, learned counsel appearing for the impleaded respondent No.7 - Reserve Bank India, submitted that on coming to know of the harassment being meted out to credit card holders of various banks at the hands of the representatives employed by the banks, necessary guidelines have been issued by the Reserve Bank of India to be followed by the banks issuing credit credits for the recovery of the amounts due from the card holders and advised all the commercial banks which are issuing credit cards not to use criminal force for recovery of the amounts due.

We have carefully examined the matter. The telegrams sent by the petitioner to this Court complaining harassment by the recovery agents/representatives of HDFC Bank for recovery of amounts due under the credit cards is not the solitary instance that has come to light in recent times. It is often noticed in the newspapers that the commercial banks issuing credit cards are engaging recovery agents/representatives for recovery of dues from the credit card holders and the recovery agents/representatives of the banks are using criminal force for recovery of the amounts due from the credit card holders and causing annoyance to the card holders.

Recovery of any amounts due from the customers of the banks should be by a method known to law or a fair practice of debt collection, which has the approval of the Reserve Bank of India, which enjoins the over all supervisory and monitoring power over all the banks in the country. Taking notice of the criticism about the illegal methods being adopted by certain banks issuing credit cards for the recovery of debts due under the credit cards, it appears that the Reserve Bank of India issued certain guidelines to be adopted by all commercial banks issuing credit cards and

which are employing recovery agents for collection of dues. It was categorically observed in the guidelines that the banks or the recovery agents should not resort to intimidation or harassment of any kind, either verbal or physical, against any person in their debt collection efforts, including acts intended to humiliate publicly or intrude the privacy of the credit card holders' family members, referees and friends, making threatening and anonymous calls or making false and misleading representations. Therefore, the banks or the recovery agents employed by them have to scrupulously follow the guidelines issued by the Reserve Bank of India in the matter from time to time and they cannot resort to the activities of using criminal force against the card holders for recovery of the amounts due. If any such criminal force or harassment is made by the banks or the recovery agents employed by them for due recovery of the amounts due under the credit cards, the affected card holders will have a right to take recourse to law by lodging a complaint with the police or can move the competent Criminal Court having jurisdiction by filing a complaint as required under Sections 190 and 200 of the Code of Criminal Procedure. Whenever such complaints are lodged by credit card holders suffered at the hands of the gundas/recovery agents employed by the banks for recovery of the amounts due to the banks under the credit cards, the concerned police shall register the complaint and after due investigation file necessary reports before the competent court having jurisdiction over the matter.

In view of the fact that the Reserve Bank of India has already taken corrective measures by issuing guidelines to the commercial banks to curb the illegal activities being adopted by the banks or the recovery agents in the matter of collection of dues from the credit card holders, and since a complaint has already been registered in the instant case against the persons concerned, no further adjudication is necessary on the telegrams sent by the petitioner.

With the above directions, the Writ Petition is closed.

The 5th respondent i.e. Director General of Police, Hyderabad, on receipt of a copy of this order, shall communicate a copy of the order of this Court to all the Superintendents of Police in the State for information and guidance of the Station House Officers working under their respective control in the Districts.

A. GOPAL REDDY, J

27th December, 2007 **G. BHAVANI PRASAD, J**

LR copy to be marked: Yes/No

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